



# Sales Tax Newsletter

## News and developments

A publication of the Sales and Special Taxes Division

### City Tax Update

#### Drake Imposes Local Sales Tax

The city of **Drake** has imposed a 1 percent local sales and use tax effective July 1, 2005. The new local tax will be reported as local code 209 on the local option schedule of the sales tax return. All transactions exempt from North Dakota sales tax will also be exempt from the Drake local tax. The city ordinance does not provide for retailer compensation.

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#### Park River Increases Use Tax

The city of **Park River** has increased its use tax rate from 1 to 2 percent effective July 1, 2005. An initiated measure approved by city residents last year increased the sales tax rate to 2 percent effective January 1, 2005, but did not increase the complementary use tax. Effective July 1, both the sales and use tax rates will be 2 percent. All other provisions of the ordinance remain unchanged including the maximum tax amount per transaction, which remains at \$25. Each invoice is a transaction for purposes of determining the maximum. ☺

## 2005 Fifty-Ninth Legislative Summary

### Sales and Use Tax

■ **House Bill 1043**, effective October 1, 2005, makes changes to the sales and use tax laws as part of the national Streamlined Sales Tax Project. This project has involved representatives from forty states, the District of Columbia, local government, and the business community, who together have worked to simplify and modernize sales and use tax collection and administration processes.

Many of the changes that occurred as a result of this legislation will not impact retailers, as many of the changes simply clarify existing tax applications. Changes that will impact some or all retailers on October 1, 2005 include:

- **Freight charges.** Freight, delivery, and other transportation charges are currently taxable where title to the goods passes to the customer upon delivery. On October 1, 2005, all charges for transportation associated with the taxable sale of goods will be taxable whether title passes at the point of origin or upon delivery.



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- *Food.* Several items that are not currently regarded as exempt food items will be redefined as qualifying food items exempt from sales tax on October 1, 2005 - sales of water in containers of less than one gallon, coffee, tea, and cocoa, and soft drinks containing fifty percent or more fruit juice.
- *Calculation of tax.* Currently, a bracket system is provided for computing the amount of sales tax due on a taxable transaction. A change in the law eliminates the bracket system, and instead requires retailers to compute the tax to the third decimal place and round up to a whole cent when the third decimal place is 5 or more. This change should be made no later than October 1, 2005.

The North Dakota Office of State Tax Commissioner will be issuing additional notifications and guidelines to permit holders regarding the changes becoming effective October 1, 2005. If you have questions regarding the information provided, please contact the Sales & Withholding Tax Section at 701-328-3470 or by e-mail at [salestax@state.nd.us](mailto:salestax@state.nd.us).

- **House Bill 1055**, effective immediately, extends the sales tax exemption that a person may receive when experiencing a total loss of farm machinery. HB 1055 enables a person to extend the credit for a total loss to multiple replacement purchases. To receive credit when purchasing replacement (new) farm machinery, the original statement of loss must be provided to the farm machinery dealer. The dealer is asked to retain a copy of the statement of loss and return the original statement of loss to the customer with a notation on the amount of credit recognized by the dealer.

To obtain a credit resulting from a total loss, the customer must use the statement of loss within three years of issuance.

- **House Bill 1179**, effective July 1, 2005, provides a sales tax exemption for sales of tangible personal property sold to an assisted living facility licensed by the North Dakota Department of Human Services. Qualifying assisted living facilities must provide the seller with a copy of their North Dakota Sales Tax Exemption Certificate issued by the State Tax Commissioner in order to support the exemption from sales tax.

- **House Bill 1268**, effective July 1, 2005, creates a sales and use tax exemption for power environmental upgrade equipment or repowering equipment intended for an existing power plant.

- **House Bill 1368**, effective July 1, 2005, provides for a sales and use tax exemption on sales made to emergency medical services providers licensed by the North Dakota Department of Health. Qualifying emergency medical providers must provide the seller with a copy of their North Dakota Sales Tax Exemption Certificate issued by the State Tax Commissioner in order to support the exemption from sales tax.


- **House Bill 1454**, effective August 1, 2005, authorizes any city to impose by ordinance a motor vehicle rental tax of up to 1% on the rental of motor vehicles for a period of less than 30 days.

- **House Bill 1496**, effective July 1, 2005, provides a sales tax exemption for the retail sale of hydrogen to power an internal combustion engine or fuel cell. The retail sale of equipment used directly and exclusively to produce and store such hydrogen that is not installed by the seller also qualifies for an exemption from sales tax, when purchased.
- **House Bill 1498**, effective July 1, 2005, modifies the sales and use tax exemption for power plant construction and production equipment to also include environmental upgrade equipment intended for oil refinery or gas processing plants.
- **Senate Bill 2170**, effective July 1, 2005, provides a sales tax exemption for sales of carbon dioxide used for enhanced recovery of oil or natural gas.
- **Senate Bill 2176**, effective July 1, 2005, provides a sales tax exemption for sales of precious metal bullion that has a purity level of not less than nine hundred ninety-nine parts per one thousand.
- **Senate Bill 2217**, effective July 1, 2005, provides a sales tax exemption for the retail sale not installed by the seller of equipment to a facility licensed under North Dakota Century Code § 57-43.2-05 for the purpose of selling diesel fuel containing at least two percent biodiesel fuel by volume.
- **Senate Bill 2379**, effective July 1, 2005, provides a sales tax exemption for that portion of a bundled telecommunications service charge that is attributed to nontaxable services as identified from the books and records of the telecommunications provider.

### **Motor Vehicle Excise Tax**

- **House Bill 1055**, effective immediately, extends the motor vehicle excise tax exemption that a person may receive when experiencing a total loss of a motor vehicle. HB 1055 enables a person to extend the credit for a total loss to multiple replacement purchases. For motor vehicles, the original statement of loss from the insurance company must be provided to the Department of Transportation's Motor Vehicle Division at the time of the motor vehicle's registration.

To obtain a credit resulting from a total loss, the customer must use the statement of loss within three years of issuance.


- **Senate Bill 2123**, effective August 1, 2005, removes the sixty day period to request a refund of motor vehicle excise tax on a qualifying purchase of a motor vehicle by a resident disabled veteran upon receipt of information verifying a 100% service-connected disability, and instead permits a qualifying refund anytime within three years of purchasing the motor vehicle.
- **Senate Bill 2246**, effective immediately, allows a "park model" trailer owner to register and license the trailer as a travel trailer subject to the 5% motor vehicle excise tax. 

***Senate Bill 2246 effective immediately, allows a "park model" trailer owner to register and license the trailer as a travel trailer subject to the 5% motor vehicle excise tax.***

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## **Sales to Montana Residents**

A recent legal review has resulted in a change in how the sales tax exemption is to apply to Montana residents purchasing items in this state. Based on the determination provided, the following must apply:

- (1) The Montana resident is in North Dakota specifically to make a purchase and not as a tourist.
- (2) The Montana resident signs a Certificate of Purchase form provided by the seller or the Office of State Tax Commissioner (forms can be obtained by calling 701-328-3470).
- (3) The sale includes \$50 or more in goods, which can include taxable and nontaxable goods.
- (4) The goods are taken outside of North Dakota for use entirely outside this state. 


### **Fuel Tax Notice For Service Stations**

The motor vehicle fuel tax law allows any consumer who buys and uses any motor vehicle fuel for an agricultural or industrial purpose in an unlicensed vehicle or equipment to file a request for refund of the motor vehicle fuel taxes paid. To support a refund request, the customer must provide an original invoice or sales ticket from the seller that contains the following information:

- seller's name and address
- date the fuel was purchased
- type of product
- number of gallons purchased
- state tax as a separate item, or a statement that the state fuel tax is included in the selling price
- customer's name 

## **Taxpayer Assistance**

If you have questions regarding sales tax or about correspondence received from our office, the following information will be helpful in ensuring that your call or visit to our office is completed in a speedy and efficient manner:

- If you have general sales tax questions, please call our Sales Tax Compliance Section at (701) 328-3470.
- If calling our office about correspondence you have received, please call the number that is listed on the correspondence, and have a copy of the correspondence available when you call.
- When calling our office, please note the name of the person assisting with your question in the event you will have any follow-up questions later.
- Instead of calling or visiting our office, you may also e-mail us at **[salestax@state.nd.us](mailto:salestax@state.nd.us)**. 

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